

Document #2

To: Water Council  
20 Hazen Drive  
PO Box 95  
Concord, N.H. 03302

RECEIVED

JUL 01 2004

From: Mark & Marianne Bonaiuto  
7 Valcat Lane  
Atkinson, N.H. 03811

Phone: (H) 603-329-5516/ Cell 603-560-6748

04-14 WTC

Date: June 29, 2004

Re: Notice of Appeal to the Shoreland Waiver Case #2004-00355

Water Council,

We are formally filing a notice of appeal as specified under Chapter Env-WC 200  
Procedural Rules, Section Env-WC 203.03 Notice of Appeals.

This is a formal appeal to the issuance of a waiver, dated May 12, 2004, to RSA 482-B:11, I granted to Daniel & Margaret Osborn, PO Box 808, Hampstead, NH 03841 for the illegal and **already completed** expansion of a cottage by approximately 49% located on Rock Island, Atkinson, NH Map 22/Lot 39. This construction was done without any permits, state approvals or consideration of environmental protection requirements noted under Chapter Env-WC 200, Chapter 483-B:9:II.

(1) We are seeking relief from the approval of Shoreland Waiver 2004-00355 to "Grant waiver to RSA 483-B:11, I to retain an expansion to a nonconforming dwelling on Rock Island in Atkinson, on Big Island Pond." We are requesting relief from this council by reversing the granting of this waiver and the removal of this structure pursuant to the requirements of RSA 482-B: 11, I Nonconforming Structures. This section states that "Such repairs or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted." Also this section further states that "Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of a deck or open porch is permitted up to a maximum of 12 feet towards the reference line."

(2) The exact legal names of the person's filing this appeal seeking relief are: Mark Bonaiuto & Marianne Bonaiuto. We reside at 7 Valcat Lane in Atkinson, New Hampshire. The zip code is 03811. We are abutters to this property.

MB  
m/b

(3) We respectfully request that this council for reconsider and deny Shoreland Waiver 2004-00355 based on the following statement of facts:

(A) The construction of this addition is a direct violation of RSA 483-B:11,I that prohibit the expansion of the exiting footprint or outside dimension. Failure to inquire and obtain town and state permits is unacceptable and will set a precedent for other illegal structures.

Comment: RSA 483-B:11,I was strengthened under Chapter 55, Senate Bill 89-Final Version, 2001 session which specifically removed from this RSA the ability to expand a nonconforming structure located within the protected shoreland. This revision took effect on July 17, 2002.

(B) The Shoreland Waiver 2004-00355 approved on May 12, 2004 does not address the five requirements noted on the Shoreland Protection Variance Application for approval of this variance. The application states that "The granting of variances to the Comprehensive Shoreland Protection Act is subject to the same criteria which governs the grant of a variance by a zoning board of adjustment under RSA 674:33.I(b):" The Commissioner is required to answer yes to all five requirements for approval of this waiver request.

Comment: The applicants answers to the five questions required for approval of this waiver notes numerous statements of fact without any qualified or professional opinions such as "Improvements to structure will not negatively impact adjoining wetlands or surface waters;..."; and "...the standards unreasonably restrict activities required to stabilize and repair the structure; the general purpose of the prohibition on expansion is to prevent detrimental impacts to water and shorelands;..." and "... no additional runoff is expected to reach the adjoining surface water." The statements by the applicants do not address the added volume of use and the taxing of an old septic system, the additional hard surfaces created by the expanded roof that that increases runoff to the pond, the size of the island at 0.26 acres, and the erosion created by construction of this addition within 50' of the water.

(C) The basis for the decision to approve the waiver as noted in the Shoreland Waiver 2004-00355 is based entirely on RSA 483-B:11,II that states that "...the Commissioner shall review proposals ..." This addition was fully completed when this application was submitted. This did not allow for prior review and consideration of topics relating to stormwater management or wastewater treatment or traffic volume or flow.

The following statements of facts for the council to consider in granting us relief are statements made in the Shoreland Waiver 2004-00355 as the basis for the decision to grant this waiver:

(D) There is no documentation or statements of fact in statement #3 to support the requirement that in order to waive the standards set in RAA 483-B:9 the Commissioner must ensure that: "...there is at least the same degree of protection provided to the public waters...".

**Comment:** The two story addition consists of two additional rooms of approximately 196 square feet each described as a kids playroom and upstairs "loft" as noted on the floor plan submitted. This addition increased the size of this cottage by approximately 49%. As everyone knows, by its very nature, a summer lake cottage normally causes increased use by the owners and their relatives and friends. Any addition of rooms without a defined purpose like a kitchen, bathroom, or laundry room must be considered as potential bedrooms or sleeping quarters to ensure "the same degree of protection is provided to the public waters." Environmental Fact Sheet WD-BB-9 titled Lake Protection Tips #2 stated "Be sure your system (septic) is designed to handle the load it receives. A leach field should be increased in size whenever the frequency (seasonal to year-round) or volume (additional people, washing machine, etc.) of use increases. At the Town of Atkinson Zoning Board Committee meeting dated May 12, 2004, this waiver was presented for approval. This board made the assumption that the two room additions could be used as bedrooms and asked for documentation on the current septic system. The applicants provided a document describing a 40 year old septic system that has never been evaluated for functionality by the owners. It was noted that the septic system **does not even meet** the current requirements for a two bedroom septic system. This committee voted unanimously that this situation creates a serious public interest threat and related health concerns. The applicants subsequently withdrew their application without prejudice.

(E) Decision #3 also states that "More nearly conforming means a proposal for significant changes to the location or size of the existing structure that brings the structure into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume of flow, or both types of proposals which significantly improve wildlife habitat or resource protection

**Comment:** Decision #4 states that an upgraded septic system (which was not required or requested) will bring the structure into greater conformity as it will improve wastewater treatment and therefore meets the criteria for 'more nearly conforming' for the issuance of a waiver per RSA 483-B:11,II." The statement that an upgraded septic system will bring the structure into greater conformity contradicts the statement in #3 that notes that the same degree of protection is provided and the proposal is 'more nearly conforming'. An approved septic plan is not in place to demonstrate 'greater conformity' that will improve wastewater treatment and therefore meet the criteria for 'more nearly conforming'. This waiver does not require the applicants to provide documentation that the existing septic system can adequately support the enlarged structure or that a new septic design is in place.

(F) Decision #3 also refers to changes to the property including stormwater management which significantly improve resource protection. There is no documentation or statement of facts that demonstrated that this addition provides any additional resource protection or maintains the current level of protection to this fragile natural resource.

MB  
M

**Comments:** It should be incumbent on the applicants to demonstrate, by facts, that this addition would ensure adequate protection to this natural resource and further demonstrate that this addition will not create the potential for any possible deterioration of this pond. The increased height of this two story addition along with the solid roof surface (which slopes in the opposite direction of the existing roof line) will greatly increase the flow and speed of water hitting the ground (causing surface erosion). The 16'x12' addition now covers 192 square feet of land that previously helped absorb rain and water runoff. Erosion is a leading cause of water quality problems in New Hampshire as stated in Environmental Fact Sheet WD-SP-1 entitled Erosion Control for Construction Within Protected Shorland. This fact sheet clearly states that problems caused by sediment include: Lower property values, poor fishing, nuisance growth of weeds and algae, loss of tourism and local tax impact.

(G) Decision #4 states that "The applicant has proposed to prohibited, by deed restriction, all future additions and accessory structures unless and until a new upgraded septic system has been approved..." This statement does not address the reasoning why the illegal addition should be approved but stated that by no allowing additional structures, that this is justification for approving the illegal addition.

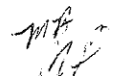
**Comments:** Atkinson, NH has established a primary building line of 100', twice the set back established by the State of NH at 50'. Mr. Adams implied that this 100' wetlands primary building line is a different measurement and not the primary building line associated with RSA 483-B:9,II(B). I spoke with the chairman of the Conservation Commission, Scott Kukshtel and he assured me that the 100' setback requirement for wetlands is the same reference line as noted in RSA 483-B:9,II(B). If you refer to the land survey attached, based on the distances noted a 100' setback would cross each other and cover the whole island (the survey lines drawn is using 50'). This would severely limit any resident of Atkinson, NH from legally constructing any accessory structures. This condition (#4), for all intent and purposes, is already in place based on the Town of Atkinson regulations. This makes condition #4 irrelevant. If #4 is not applicable based on the Town of Atkinson regulations, there appears to be no justifying statements that would allow approval of this illegal addition.

(4) A copy of the Shoreland Waiver 2004-00355 approval is attached.

(5) Attached are the following documents: A land survey of Rock Island, a floor plan of the addition, and various fact sheets.

(6) This appeal has been delivered to the Water Council Clerk via Federal Express. The Certificate of Service has been done by first class mail to:

Commissioner Michael P. Nolan  
20 Hazen Drive PO Box 95  
Concord, N.H. 03302



DES Water Division Director, Harry T. Stewart  
20 Hazen Drive  
PO Box 95 Concord, N.H. 03302

Daniel Joseph & Margaret Osborn  
PO Box 808  
Hampstead, N.H. 03841

Certificate of Service Attested to by Mark Bonaiuto *Mark Bonaiuto* & Marianne Bonaiuto *Marianne Bonaiuto*

(7) We plan to represent ourselves in the appeals process. Any change in representation will require notification and approval by the council.

In conclusion, the basis for approval of this waiver are not justified nor supported by any factual documentation that ensures that the same degree of protection is provided to the public water, that the structure is more nearly conforming by bringing the existing structure into greater conformity, or that the addition significantly improves wildlife habitat or resource protection. We understand that the DES tries to be fair to all parties, but hopefully by reading this appeal and the rebuttal presented this council will reconsider and deny this variance.

At the last Atkinson Zoning Board meeting dated May 12, 2004 numerous residents of Atkinson were present to support the denial of this waiver and return this island to its natural state. Representatives from Big Island Pond Corporation, Hemlock Heights Association, and Chase Island Association, along with a signed petition by four home owners to this committee and a verbal commitment from a member of the Bolder Cove Association requesting denial of this variance. We are respectfully submitting this appeal for denial of this waiver with the full support of what the NH Department of Environmental Services represents. By reading this request for denial, hopefully this department will reconsider and enforce the laws established to protect our most fragile and valuable resources. Thank you for your time and ability to submit this appeal..

Respectfully Submitted,  
*Mark Bonaiuto*  
Mark & Marianne Bonaiuto  
June 29, 2004

DES Water Division Director, Harry T. Stewart  
20 Hazen Drive  
PO Box 95 Concord, N.H. 03302

Daniel Joseph & Margaret Osborn  
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Certificate of Service Attested to by Mark Bonaiuto *Mark Bonaiuto* & Marianne  
Bonaiuto *Marianne Bonaiuto*

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Respectfully Submitted  
*Mark Bonaiuto*  
Mark & Marianne Bonaiuto  
June 29, 2004



#5

The State of New Hampshire  
**Department of Environmental Services**

Michael P. Nolin  
Commissioner



**SHORELAND WAIVER 2004-00355**

Owner: Daniel Osborn, PO Box 808, Hampstead, NH 03841  
Project Location: Rock Island, Atkinson  
Map 22/Lot 39  
Waterbody: Big Island Pond

Page 1 of 2

**APPROVAL DATE: 05/12/2004**

Based upon review of the above referenced application, in accordance with RSA 483-B:11, II, a Shoreland Waiver was issued. This waiver shall not be considered valid unless signed as specified below.

**DESCRIPTION:**

Grant waiver to RSA 483-B:11, I to retain an expansion to a nonconforming dwelling on Rock Island in Atkinson, on Big Island Pond.

**THIS WAIVER IS SUBJECT TO THE FOLLOWING CONDITIONS:**

1. All work shall be conducted in accordance with plans dated September 14, 2003 as received by DES on September 29, 2003.
2. This approval shall not be effective until it has been recorded at the Strafford County Registry of Deeds.
3. The applicant shall record a restrictive covenant on the deed at the Strafford County Registry of Deeds prohibiting the construction of accessory structures of any kind on the property until a new septic system has been approved by the State and installed in accordance with the CSPA. A copy of the recorded covenant shall be submitted to DES.
4. A copy of this variance shall be posted on site during construction in a prominent location visible to inspecting personnel.
5. This waiver does not exempt the owner from obtaining any other necessary local, state or federal permits or approvals.
6. The owner shall maintain compliance with all other requirements of the Comprehensive Shoreland Protection Act, RSA 483-B.

**THIS DECISION IS BASED ON THE FOLLOWING FINDINGS:**

1. The existing dwelling is located within the 50 ft setback to Big Island Pond and therefore fails to conform to the minimum standard set forth in RSA 483-B:9, II, of the CSPA.
2. In accordance with RSA 483-B:11, I, nonconforming structures may be repaired, renovated, or replaced in kind provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted.
3. In accordance with RSA 483-B:11, II, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters and the proposal is "more nearly conforming." More nearly conforming means a proposal for significant changes to the location or size of the existing structures that bring the structures into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection."

#5

4. The applicant has proposed to prohibit, by deed restriction, all future additions and accessory structures unless and until a new upgraded septic system has been approved by the State and installed in accordance with the CSPA. Accessory structures shall include, but not be limited to, gazebos, sheds, patios, additional decks, and boathouses. An upgraded septic system will bring the structure into greater conformity as it will improve wastewater treatment and therefore meets the criteria of 'more nearly conforming' for the issuance of a waiver per RSA 483-B:11, II.

APPROVED

  
Michael P. Nolin  
Commissioner

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BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS WAIVER AND  
AGREE TO ABIDE BY ALL WAIVER CONDITIONS.

OWNER'S SIGNATURE (required)



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3rd

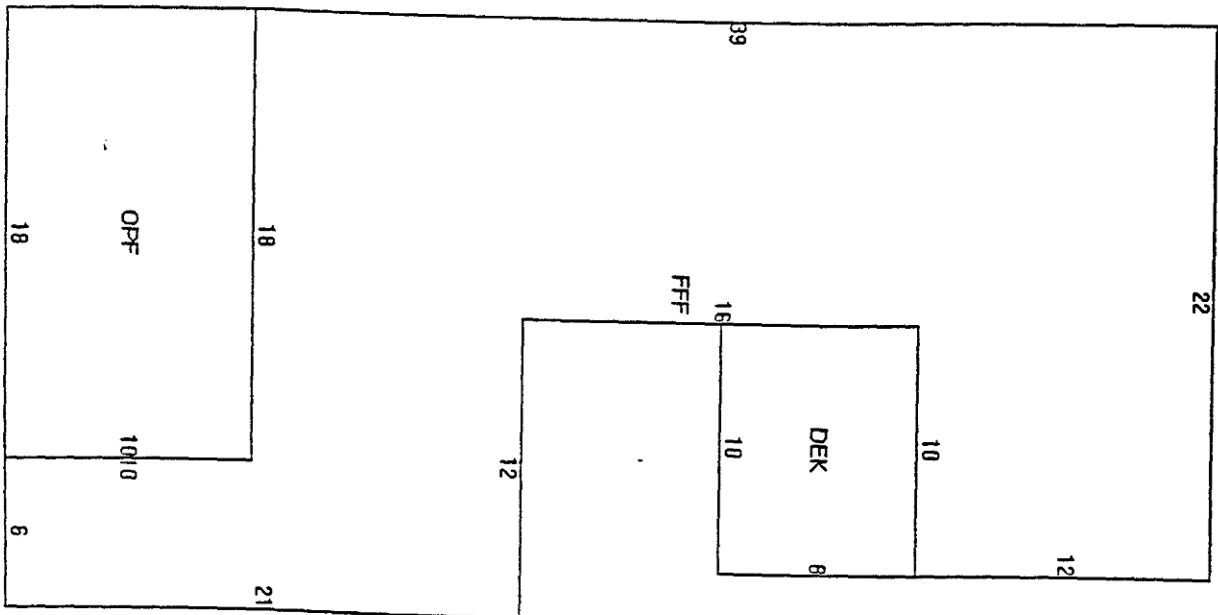
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# BUILDING SKETCH



## BUILDING DESCRIPTION

1940 CAMP

Roof: GABLE HIP/ASPHALT

Ext: AVERAGE

Int: WALL BOARD

Floor: LINOLEUM OR SIM/HARDWOOD

Heat: WOOD/COAL/CONVECTION

Bedrooms: 2 Baths: A/C: No

Base Rate: BRCP \$ 32.00

Com. Wall:

Stories: 1.00 STORY FRAME 0.95

Quality: A0 0.7500 Size Adjust: 1.4175

Building Square Foot Cost: \$ 32.32

## BUILDING SUB AREA DETAILS

ID	Description	Area	Adj. Effect.
DEK	DECK/ENTRANCE	80 0.10	8
FFF	FST FLR FIN	780 1.00	780
OPF	OPEN PORCH FIN	180 0.25	45
		1,040	833

## BUILDING MARKET COST NEW

\$ 26,923

## DEPRECIATION

Normal: AVERAGE 20 %

Physical:

Functional:

Economic:

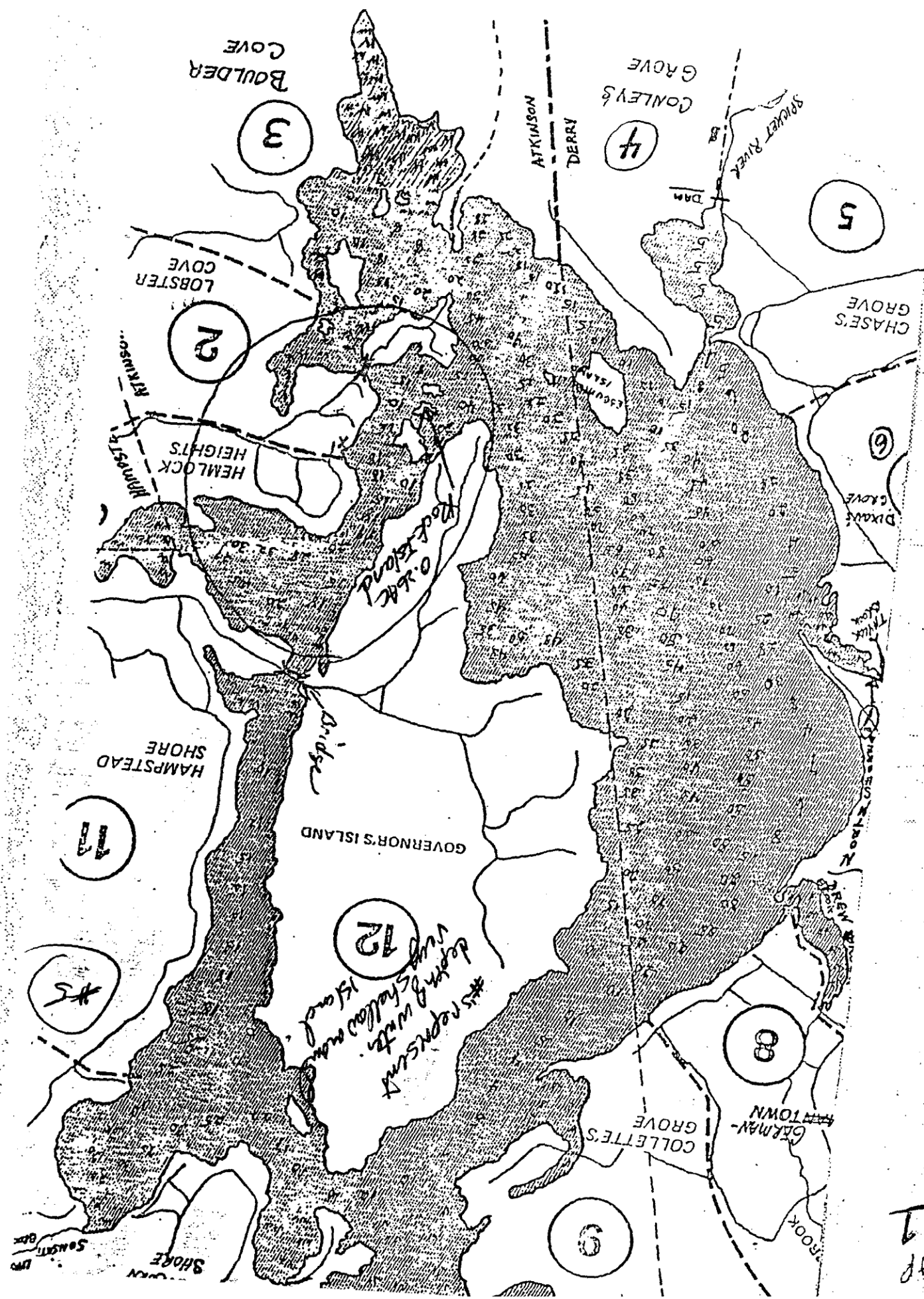
Temporary:

Total Depreciation: 20 %

## BUILDING DEPRECIATED VALUE

\$ 21,500

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dww

# ENVIRONMENTAL Fact Sheet



6 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • [www.des.state.nh.us](http://www.des.state.nh.us)

WD-SP-8

19. 3 483-B-9, v(a)(a)(A)

2002

## Changes to the Comprehensive Shoreland Protection Act

### 2001 Legislative Session

Since July 1, 1994, The Comprehensive Shoreland Protection Act (The Act) has set minimum standards for the use and development of shoreland property. These minimum standards serve to protect New Hampshire's public water bodies and adjacent shorelands which are among our most fragile and valuable natural resources.

In 2001 the New Hampshire legislature formed a committee to study means of strengthening and clarifying The Act (Senate Bill 89 session 2001). Through this committee several changes were introduced into the 2002 revision and were adopted as amendments to The Act. These amendments clarify the minimum standards and how they apply to individual properties within New Hampshire's protected shoreland. These changes are effective on July 17, 2002 except for changes pertaining to fines which are effective as of January 1, 2003.

### STRUCTURES

The Act governs all structures within the protected shoreland. This includes, but is not limited to, primary structures, accessory structures, and water dependent accessory structures. Some of the changes that have been made to The Act affect the placement of structures within the protected shoreland.

While the primary building setback remains 50 feet from the reference line, no municipality may establish a setback less than 50 feet from the reference line after January 1, 2002. A municipality with a less stringent shoreland setback, established prior to January 1, 2002, may retain that setback. In the case of a municipality with a greater shoreland setback, the more stringent setback shall apply.

Municipalities with an established shoreland setback for primary structures are responsible for the administration of variance requests to that setback.

Under previous statute, pre-existing nonconforming structures were permitted to be repaired, improved, or expanded, but not replaced. Under the new statute, pre-existing nonconforming structures may be repaired, renovated, or replaced in kind but they may not be expanded between the primary building line and the reference line.

The applicability of Site Specific permits within protected shoreland has also changed. Previously, site specific permits were required where at least 50,000 contiguous square feet of terrain alteration was fully within protected shoreland. Under the new statute a Site Specific permit is required for land alteration of 50,000 contiguous square feet or more, when any portion of the disturbance falls within protect shoreland under RSA 485-A:17I.

## Statute Changes

### STRUCTURE

5 RSA 483-B:9. II(b), Primary structures shall be set back behind the primary building line which is 50 feet from the reference line. ~~[This line shall initially be set back 50 feet from the reference line. Upon the establishment of a shoreland building setback by a municipality, that standard, whether greater or lesser than 50 feet, shall define the primary building line in that municipality.]~~ Municipalities having a setback of less than 50 feet prior to June 1, 2002 may maintain the defined primary building line in that municipality.

6 RSA 483-B:11. I. ~~Except as otherwise prohibited by law, [pre-existing] nonconforming structures, erected prior to July 1, 1994, located within the protected shoreland may be repaired, [improved] renovated, or [expanded] replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted.~~ An expansion that increases the sewerage load to an on-site septic system, ~~[for example, additional bedrooms,] or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of [an open] a deck or open porch is permitted up to a maximum of 12 feet towards the reference line.~~

7 RSA 483-B:4. II XVIII-c. ~~"Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.~~

8 RSA 483-B:9. V(c),

(1) All new structures, *modifications to existing structures, and excavation or earth moving* within protected shoreland shall be designed and constructed in accordance with rules adopted by the department ~~[pursuant to]~~ under RSA 541-A:17, relative to terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment ~~[for controlling erosion and siltation of public waters]~~, during and after construction.

(2) New structures *and all modifications to existing structures* within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

### WOODLAND BUFFER

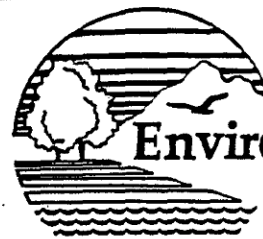
9 RSA 483-B:9. V(a)(2)(A), Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs, ground cover, and their living, undamaged root systems shall be left in place. ~~[Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.]~~

10 RSA 483-B: V(1)(B), Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

### DEVELOPMENT

#5

# ENVIRONMENTAL Fact Sheet



NEW HAMPSHIRE  
DEPARTMENT OF  
**Environmental  
Services**

6 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • [www.des.state.nh.us](http://www.des.state.nh.us)  
WD-SP-1 1998

## Erosion Control for Construction Within Protected Shoreland

### EROSION IS A SERIOUS PROBLEM

Erosion is the process by which soil is carried by water or wind. When water carries soil into a waterbody, it not only fills in the waterbody but contributes nutrients that algae and aquatic weeds need to grow. When vegetation is removed or ground is disturbed, erosion accelerates, overloading the waterbody with nutrients and sediment. This can often contribute to excessive algae and aquatic weed growth, reducing the clarity and quality of the water.

Erosion at construction sites is a leading cause of water quality problems in New Hampshire waterbodies. Soils become vulnerable to erosion when construction activity removes or disturbs vegetative cover. These vegetative covers shield soil surface from the impact of rain, reduce the velocity of runoff, maintain the soil's capacity to absorb water, and hold soil particles in place. By limiting and phasing vegetation removal during construction, soil erosion can be significantly reduced.

The New Hampshire Comprehensive Shoreland Protection Act (CSPA) was passed to protect New Hampshire's lakes, ponds, rivers, and estuaries. The CSPA requires that any excavation or earth moving in protected shoreland must have appropriate erosion and sedimentation controls in accordance with the Alteration of Terrain Program (RSA 485-A:17 and Env-Ws 415). This fact sheet explains some methods to limit erosion during construction within the protected shoreland.

Problems caused by sediment include:

**Lower Property Values:** Property values may decline when a lake, pond or stream fills with sediment. Shallow areas encourage weed growth and create boating hazards.

**Poor Fishing:** Muddy water drives away fish like chain pickerel that rely on sight to feed. As it settles, sediment smothers gravel beds where fish like smallmouth bass find food and lay their eggs.

**Nuisance Growth of Weeds and Algae:** Sediment carries nutrients that feed algae and aquatic weeds.

**Loss of Tourism:** Shallow, mucky lakes, ponds and streams are not attractive to tourists or local residents.

**Local Tax Impacts:** Cleaning up sediment in streets, sewers and ditches adds extra costs to local government budgets.

### PREVENTING EROSION IS EASY

Erosion control is important to protect the quality of New Hampshire's public waters. The materials needed are easy to find and are relatively inexpensive: hay bales or silt fence, stakes, mulch, gravel, and grass seed.

Putting these materials to use is a straight forward process. Only a few controls are needed on most sites.

**Silt Fence or Hay Bales:** These are used to trap sediment on the down slope side of the lot. Proper installation is the key to success.

**Hay/Straw Mulch:** This is used to cover disturbed soil and prevent erosion, promotes seed growth.

**Temporary Diversions:** These structures route clean water from up slope areas around the site.

**Soil Pile Location:** Locate erodible materials away from any roads or waterways.

**Gravel Drive:** Use gravel to limit the tracking of mud onto streets. Use of geotextiles under gravel stops pumping of gravel into underlying sediment and saves on maintenance.

**Cleanup:** Reclaim sediments that are carried off site by vehicles or storms.

**Downspout Extenders:** These prevent erosion from roof runoff and safe outlets to prevent scour. Vegetation, stone basins, and level spreaders are useful in outlet protection.

**Vegetation:** Preserving existing trees and vegetation where possible to prevent erosion.

**Revegetation:** Replant and seed sites as soon as possible with natural or native species. Do not underestimate the success of frost seeding and mulch as an alternative to leaving a slope bare until spring planting season.

# Environmental Fact Sheet

#5

BB-9

1997

## Lake Protection Tips Some Do's and Don'ts for Maintaining Healthy Lakes

Activities that increase the input of phosphorus and sediment erosion into lakes are not good; however those that decrease these inputs will greatly help prolong the health of lakes. Listed below are activities that lake residents and others can do to help reduce phosphorus and sediment inputs.

- Pump out your septic tank every three to five years, or whenever the sludge level exceeds one-third of the tank capacity.

• Maintain your septic system properly (Contact the NHDES to obtain several free informational brochures). Be sure your system is designed to handle the load it receives. A leach field should be increased in size whenever the frequency (seasonal to year-round) or volume (additional people, washing machines, etc.) of use increases.

- Check your leach field for soft or wet areas or septic smells. Replace faulty systems.

- Do not bathe, shampoo, or wash boats, pets, or other objects in the lake with soap or phosphorus-containing detergents. Do not wash automobiles near lakes where the detergent can run into the water.

- Use low or non-phosphate detergent. Take your clothes to a laundromat located outside the lake's drainage area.

- Keep land clearing to a minimum. Revegetate bare areas to minimize erosion to the lake. Roads and paths leading to the lake should be curved to reduce erosion.

- Maintain a buffer zone of natural vegetation along the shore to contain erosion and assimilate nutrients before they reach the lake.

- Do not use fertilizer near the lake shore. Encourage shore fronts with natural vegetation, rather than green, manicured lawns.

- Do not burn brush or leaves near the shore; the nutrients remain behind to be washed into the lake during the first rain. Do not dump leaves or grass clippings in or near the lake. They also add nutrients to the water.

- Do not urinate or defecate in the lake, and don't allow pets to do the same. Cows, horses, or other groups of animals should not be housed near the lake where the phosphorus in their manure can be washed into the lake by rain.



Erosion Control for Construction Within Protected Shorland. This fact sheet clearly states that problems caused by sediment include: Lower property values, poor fishing, nuisance growth of weeds and algae, loss of tourism and local tax impact.

4. "The applicant is prohibited by deed restriction, all future additions and accessory structures unless and until a new upgraded septic system has been approved..." This statement does not address the reasoning why the illegal addition should be approved but stated that by no allowing additional structures, that this is justification for approving the illegal addition. The failure to show that this addition will not negatively affect the water quality, recreations use, fishing, and property values suggests that this variance should be denied.

Comments: Atkinson, NH has established a primary building line of 100', twice the set back established by the State of NH at 50'. Mr. Adams implied that this 100' wetlands primary building line is a different measurement and not the primary building line associated with RSA 483-B:9,II(B). I spoke with the chairman of the Conservation Commission, Scott Kukshel and he assured me that the 100' setback requirement for wetlands is the same reference line as noted in RSA 483-B9,II(B). If you refer to the land survey attached, based on the distances noted a 100' setback would cross each other and cover the whole island (the survey lines drawn is using 50'). This would severely limit any resident of Atkinson, NH from constructing any accessory structures. This condition (#4), for all intent and purposes, is already in place based on the Town of Atkinson regulations. This makes condition #4 irrelevant. If #4 is not applicable based on the Town of Atkinson regulations, there appears to be no justifying statements that would allow approval of this illegal addition.

In conclusion, the basis for approval of this waiver are not justified nor supported by any factual documentation that ensures that the same degree of protection is provided to the public water, that the structure is more nearly conforming by bringing the existing structure into greater conformity, or that the addition significantly improves wildlife habitat or resource protection. We understand that the DES tries to be fair to all parties, but hopefully by reading this appeal and the rebuttal presented this office will reconsider and deny this variance.

At the last Atkinson Zoning Board meeting dated May 12, 2004 numerous residents of Atkinson were present to support the denial of this waiver and return this island to its natural state. Representatives from Big Island Pond Corporation, Hemlock Heights Association, and Chase Island Association, along with a signed petition by four home owners to this committee requesting denial of this variance, and a verbal commitment from a member of the Bolder Cove Association. We are respectfully submitting this appeal for denial of this waiver with the full support of what the NH Department of Environmental Services represents. By reading this request for denial, hopefully this department will reconsider and enforce the laws established to protect our most fragile and valuable resources. Thank you for your time and ability to submit our concerns.

The following signatures indicate their support for the appeal for denial of this waiver:

*Handwritten signature: John J. Sanborn*  
**COPY**

*Handwritten signature: John J. Sanborn*  
**COPY**

*Handwritten signature: John J. Sanborn*  
**COPY**

*Handwritten notes:*  
Don't Hole  
13 Chase Island  
Atkinson, NH  
Town of Atkinson  
Chase Island  
Director, Bolder Cove  
Pond Corp

*Handwritten notes:*  
CONTACT Reop  
Bolder Cove  
Valley Lane  
Atkinson N.H.



Erosion Control for Construction Within Protected Shorland. This fact sheet clearly states that problems caused by sediment include: Lower property values, poor fishing, nuisance growth of weeds and algae, loss of tourism and local tax impact.

4. "The applicant is prohibited by deed restriction, all future additions and accessory structures unless and until a new upgraded septic system has been approved..." This statement does not address the reasoning why the illegal addition should be approved but stated that by no allowing additional structures, that this is justification for approving the illegal addition. The failure to show that this addition will not negatively affect the water quality, recreations use, fishing, and property values suggests that this variance should be denied.

Comments: Atkinson, NH has established a primary building line of 100', twice the set back established by the State of NH at 50'. Mr. Adams implied that this 100' wetlands primary building line is a different measurement and not the primary building line associated with RSA 483-B:9,II(B). I spoke with the chairman of the Conservation Commission, Scott Kukshiel and he assured me that the 100' setback requirement for wetlands is the same reference line as noted in RSA 483-B9,II(B). If you refer to the land survey attached, based on the distances noted a 100' setback would cross each other and cover the whole island (the survey lines drawn is using 50'). This would severely limit any resident of Atkinson, NH from constructing any accessory structures. This condition (#4), for all intent and purposes, is already in place based on the Town of Atkinson regulations. This makes condition #4 irrelevant. If #4 is not applicable based on the Town of Atkinson regulations, there appears to be no justifying statements that would allow approval of this illegal addition.

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The following signatures indicate their support for the appeal for denial of this waiver:

Denise Levesque  
Kathleen Lasher  
50 Hemlock Rd  
Atkinson, NH 03811

John & Susan Harrigan  
9 Hemlock Heights Rd  
Atkinson, NH 03811

Marianne Boudreau  
7 Valcartier Rd  
Atkinson, NH 03811

David Holig  
13 Chase Island Rd  
Atkinson, NH 03811  
Town of Atkinson  
Chase Island Assoc.  
Director, Big Island  
P.O. Box

Handwritten notes and stamps on the left margin, including "COPY" and "Atkinson, NH 03811".

Large "COPY" stamp across the bottom of the page.

Large "COPY" stamp on the right side of the bottom of the page.

# ► Atkinson Couple fined \$1,000 for building without permit

**BY ANDY SMITH  
STAFF WRITER**

By ANDY SMITH, STAFF WRITER  
The ATKINSON Selectmen have leveled a \$1,000 fine against a couple who put a significant addition onto their home without a permit. The couple, who live on a 10-acre property in the town of Andover, were fined for the addition's height by about 49 percent, selectmen said. Because the building is less than 80 feet from shore, the Osbornes would have needed a variance from the Zoning Board of Adjustment for such an increase.

Osbornes would have needed a variance from the Zoning Board of adjustment for such an increase.

In May, the Osbornes went before the board, would not grant the ZBA for a variance to allow the addition of a new septic system or repairs to the existing system. The board would not grant the variance without plans for a new septic system or repairs to the existing system. He would like to see the board would not grant the variance without plans for a new septic system or repairs to the existing system.

their Big Island Pond home without first securing a building permit.

**Reached by phone, Margaret Osborne declined to comment on**

"Our concern is the small core of what's known as lobstermen who withdrew their variances request, and its beached and the people

Dan and Margaret Osborne, who last summer inherited the pr-

the matter. The couple and their three children use the residence

Core expressed concern about the 100-ton Mark Bonaiuto, who, in 1968, "who swim and fish in the waters increased load on the cottage" across the water on 7 Valcat Lane, there. "If it's allowed to

ly cottage on Rock Island, added a second-floor loft last fall, increas-

**In addition to the fine, the Board, as a summer home,**

The Osbornes contended there was nothing about the property He said on septic system. "I don't know," he said residents are still concerned. "The fact is, I don't know if it's dangerous or not." He would see a dangerous precedent to all lakes and water

ing the square footage of the struc-

of Selectmen ordered that the

would be no additional use or acceptance of two-weekends, he regularly sees 12 bottles in New Hampshire, and

1

1

[illegible]

# Pharmaceutical Industry

Figure 1. The effect of the number of trials on the number of correct responses. The number of correct responses was plotted against the number of trials for each condition. The number of correct responses increased with the number of trials for all conditions. The number of correct responses was highest for the condition with the highest number of trials (10 trials) and lowest for the condition with the lowest number of trials (2 trials).